

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

65.791 ACRES OF LAND, MORE OR
LESS, SITUATE IN HIDALGO COUNTY,
STATE OF TEXAS; AND THE ROMAN
CATHOLIC DIOCESE OF
BROWNSVILLE, TEXAS, ACTING BY
AND THROUGH ITS BISHOP, THE
MOST REVEREND DANIEL E. FLORES,
AS BISHOP OF THE ROMAN CATHOLIC
DIOCESE OF BROWNSVILLE, AND FOR
HIS SUCCESSORS IN OFFICE, ET AL.,

Defendants.

CASE NO. 7:18-CV-329

COMPLAINT IN CONDEMNATION

1. This is a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security, for the taking of property under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.

3. The interest in property taken herein is under and in accordance with the authority set forth in Schedule “A.”

4. The public purpose for which said interest in property is taken is set forth in

Schedule “B.”

5. The legal description and map or plat of land in which certain interests are being acquired by the filing of this Complaint, pursuant to the Declaration of Taking, are set forth in Schedules “C” and “D.”

6. The interest being acquired in the property described in Schedules “C” and “D” is set forth in Schedule “E.”

7. The amount of just compensation estimated for the property interest being acquired is set forth in Schedule “F.”

8. The names and addresses of known parties having or claiming an interest in said acquired property are set forth in Schedule “G.”

9. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and eligible.

WHEREFORE, Plaintiff requests judgment that the interest described in Schedule “E” of the property described in Schedules “C” and “D” be condemned, and that just compensation for the taking of said interest be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

RYAN K. PATRICK
United States Attorney
Southern District of Texas

By: *s/John A. Smith, III*
JOHN A. SMITH, III
Assistant United States Attorney
Southern District of Texas No. 8638
Texas Bar No. 18627450
One Shoreline Plaza
North Shoreline Blvd., Suite 500
Corpus Christi, Texas 78401
Telephone: (361) 888-3111

Facsimile: (361) 888-3234
E-mail: jsmith112@usdoj.gov
Attorney in Charge for Plaintiff

And

MEGAN EYES

Assistant United States Attorney
Southern District of Texas No. 3135118
Florida Bar No. 0105888
1701 W. Bus. Hwy. 83, Suite 600
McAllen, TX 78526
Telephone: (956) 548-2554
Facsimile: (956) 548-2776
E-mail: Megan.Eyes@usdoj.gov
Attorney for Plaintiff

SCHEDULE

A

SCHEDULE A

AUTHORITY FOR THE TAKING

The property is taken under and in accordance with 40 U.S.C. §§ 3113 and 3114, which authorize the condemnation of land and the filing of a Declaration of Taking; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, 110 Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. § 1103(b) & note; and the Act of Congress approved March 23, 2018, as Public Law 115-141, div. F, tit. II, 132 Stat. 348, which appropriated the funds which shall be used for the taking.

SCHEDULE B

SCHEDULE B

PUBLIC PURPOSE

The public purpose for which said property is taken is to conduct surveying, testing, and other investigatory work needed to plan the proposed construction of roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.

SCHEDULE C

SCHEDULE C

LEGAL DESCRIPTION

Hidalgo County, Texas

Tract: RGV-MCS-2212

Owner: ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE, et al.

Acreage: 4.781

As identified in the Warranty Deed, Document #: 1999-814019, recorded on October 12, 1999, in the Deed Records of Hidalgo County:

BEGINNING at a 3-inch steel pipe with nail found in the northwest boundary line of the 300-acre reserve and being the west comer of a 35.81-acre tract as recorded in Volume 1214, Page 1014, Deed Records, said 3-inch steel pipe also being in the southwest line of the International Boundary and Water Commission (IBWC) River Levee as recorded in Volume 488, Page 636, Deed Records;

Thence, departing said northwest boundary line with the southwest boundary line of the said 35.81-acre tract and IBWC River Levee, same being the northeast boundary line hereof,

S. 01° 57' 36" W., 109.56 feet

to a 3-inch steel pipe with nail found for an angle point;

Thence, containing along said boundary lines,

S. 15° 03' 15" E., 138.90 feet

to a 3-inch steel pipe with nail found for an angle point;

Thence, continuing along said boundary lines,

S. 74° 56' 45" W., 40.22 feet

to a 1/2-inch steel rod set for an angle point;

Thence, continuing along said boundary lines,

S. 15° 11' 20" E., 183.69 feet

to a ½-inch steel rod set at the northernmost corner of the U.S.A. Tract 332a, as recorded in Volume 2825, Page 116, Deed Records;

Thence, departing said southwest boundary line with the northwest boundary line of said Tract 332a,

S. 60° 28' 10" W., 111.88 feet

to a United States Fish and Wildlife Service (USFWS) aluminum monument found for a corner;

Thence, continuing along the said northwest boundary line,

N. 29° 31' 50" W., 110.00 feet

to a USFWS aluminum monument found for a corner;

Thence, continuing along the said northwest boundary line,

S. 60° 28' 10" W., 85.00 feet

to a USFWS aluminum monument found for a corner;

Thence, continuing along the said northwest boundary line,

S. 29° 31' 50" E., 40.00 feet

to a USFWS aluminum monument found for a corner;

Thence, continuing along the said northwest boundary line,

S. 60° 28' 10" W., 120.00 feet

to a ½-inch steel rod set for a corner;

Thence, continuing along the said northwest boundary line,

N. 29° 31' 50" W., 70.00 feet

to a USFWS aluminum monument found for a corner;

Thence, continuing along the said northwest boundary line,

S. 60° 27' 07" W., 272.37 feet

to a 1/2-inch steel rod set at the south corner of the tract herein described;

Thence, departing said northwest boundary line of tract .332a with the southwest boundary line of the tract herein described,

N. 29° 32' 53" W., 255.91 feet

to a 1/2-inch steel rod set in the northwest boundary line of the said 300-acre reserve for the west corner of the tract herein described;

Thence, along the said northwest boundary line,

N. 60° 28' 10" E., 765.72 feet

to the POINT OF BEGINNING and containing 4.781 acres of land, more or less.

SCHEDULE D

SCHEDULE D

MAP or PLAT

Catholic Diocese Of Brownsville

RGV Sector/ Hidalgo County



LAND TO BE CONDEMNED

Tract: RGV-MCS-2212

Owner: ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE, et al.

Acreage: 4.781

* The case caption identifies acreage for the entire parent tract; Access to the entire parent tract may be necessary to complete a survey of the proposed tract outlined in red on the map above.

SCHEDULE C

SCHEDULE C

LEGAL DESCRIPTION

Hidalgo County, Texas

Tract: RGV-MCS-2217

Owner: ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE, et al.

Acreage: 61.01

As identified in the Warranty Deed, Document #: 1999-814019, recorded on October 12, 1999, in the Deed Records of Hidalgo County and identified in Warranty Deed, Document #: 2011-2219429, recorded on July 1, 2011, in the Deed Records of Hidalgo County.

BEGINNING at a ½-inch steel rod set in the southwest right-of-way (R.O.W.) line of FM494 for the east corner of this tract and the north corner of a 72.95-acre tract recorded in Volume 1214, Page 1014, Deed Records, Hidalgo County, Texas;

Thence, departing said southwest R.O.W. line, with the northwest boundary line of the 72.95 acre tract,

S. 55° 58' 30" W., 823.58 feet

to a ½-inch steel rod set for an angle point;

Thence, continuing along said northwest boundary line,

S. 57° 18' 38" W., 897.67 feet

to a ½-inch steel rod set at the west corner of the said 72.95 acre tract and being in the northeast boundary line of U.S.A. Tract (326C) as recorded in Volume 1510, Page 87, Deed Records, same being the southwest line of the International Boundary and Water Commission (IBWC) River Levee as recorded in Volume 488, Page 636, Deed Records;

Thence, along the southwest line of the IBWC River Levee, the northeast boundary line of U.S.A. Tract (326C),

N. 30° 31' 34" W., 320.68 feet

to a 1/2-inch steel rod set for an angle point;

Thence, continuing along said boundary lines,

N. $29^{\circ} 38' 34''$ W., 369.00 feet

to a 3-inch steel pipe with nail found for an angle point;

Thence, continuing along said boundary lines,

S. $60^{\circ} 21' 26''$ W., 125.00 feet

To a 1/2-inch steel rod set for an angle point;

Thence, continuing along said boundary lines,

N. $30^{\circ} 23' 34''$ W., 496.50 feet

to a 1/2-inch steel rod set for an angle point;

Thence, continuing along said boundary lines,

N. $58^{\circ} 20' 47''$ E., 124.64 feet

to a 1/2-inch steel rod set for an angle point;

Thence, continuing along said boundary lines,

N. $31^{\circ} 22' 46''$ W., 400.00 feet

to a 1/2-inch steel rod set for an angle point;

Thence, continuing along said boundary lines,

N. $22^{\circ} 34' 46''$ W., 457.20 feet

to a 1/2-inch steel rod set for an angle point;

Thence, continuing along said boundary lines,

N. $21^{\circ} 01' 46''$ W., 733.80 feet

to a 3-inch steel pipe with nail found for an angle point;

Thence, continuing along said boundary lines,

N. $14^{\circ} 16' 57''$ W., 222.67 feet

to a 1/2-inch steel rod set for the west corner of the tract herein described, same being the north corner of U.S.A. Tract (326C), and the south corner of a 35.81-acre tract as recorded in Volume 1214, Page 1014, Deed Records;

Thence, along the southeast boundary line of the 35.81 acre tract,

N. $79^{\circ} 32' 10''$ E., 1,466.24 feet

to a 1/2-inch steel rod set in the southwest R.O.W. line of F.M. 494 for the north corner of the tract herein described, same being the east corner of the said 35.81-acre tract;

Thence, along the southwest R.O.W. line of FM 494,

S. $29^{\circ} 42' 39''$ E., 157.54 feet

to a 1/2-inch steel rod found at the point of curvature of a curve to the left having a central angle of $18^{\circ} 51' 46''$, a radius of 372.40, and a tangent of 61.86 feet;

Thence, continuing along the southwest R.O.W. line of F.M. 494 and the arc of said curve to the left,

122.60 feet

to a 1/2-inch steel rod set for the point of tangency;

Thence, continuing along the southwest R.O.W. line of F.M. 494,

S. $29^{\circ} 42' 39''$ E., 78.53 feet

to a 1/2-inch steel rod found at the point of curvature of a curve to the left having a central angle of $04^{\circ} 44' 23''$, a radius of 5779.58 feet, and a tangent of 239.19 feet;

Thence, continuing along the southwest R.O.W. line of F.M. 494 and the arc of said curve to the left,

478.11 feet

to a 1/2-inch steel rod set for the point of tangency;

Thence, continuing along the southwest R.O.W. line of F.M. 494,

S. 34° 27' 02" E., 1,563.00 feet

to the POINT OF BEGINNING and containing 100.900 acres of land, more or less.

EXCEPTING

A 39.89-acre tract of land situated in Porcion Number 56 and Porcion Number 57, City of Mission, Hidalgo County, Texas, said 39.89-acre tract being part of that called 100.900-acre tract of land known as Tract I described in Special Warranty Deed to Catholic Diocese of Brownsville as recorded in Document Number 814019 of the Deed Records of Hidalgo County, Texas (D.R.H.C.T.), said 39.89-acre tract being more particularly described as follows:

BEGINNING at a ½-inch iron rod set with yellow plastic cap stamped "HALFF ASSOC." (hereinafter referred to as "with cap") for the North corner of herein described 39.89-acre tract, said point being the intersection of the Southeast line of a tract of land described in Special Warranty Deed to Hunt Valley Industrial I, L.P. as recorded in Document Number 1153789, Deed Records Hidalgo County, Texas, (previously described as a called 35.81-acre tract of land described in Deed to Allan Shivers as recorded in Volume 1214, Page 1014, Deed Records Hidalgo County, Texas, with the common Northeast line of the aforementioned 100.900-acre tract and the Southwest right-of-way line of F.M. 494 (a 100-foot wide right-of-way), from which point a 5/8-inch iron rod found bears N. 29°, 43', 29" W., 5.26 feet;

Thence, S. 29°, 43', 29" E, with the common Northeast line of said 100.900-acre tract, the Southwest right-of-way line of said F.M. 494 and the Northeast line of the herein described 39.89-acre tract, a distance of 152.28 feet to the point of curvature of a non-tangent circular curve to the left having a radius of 372.40 feet, whose chord bears S. 20°, 17', 36" E., 122.05 feet, from which point a 5/8-inch iron rod found bears S. 29°, 43', 29" E., 0.21 of a foot;

Thence, Southerly, continuing with said common line and with said curve, through a central angle of 18°, 51', 47", an arc distance of 122.60 feet to the point of tangency, from which point a 5/8-inch iron rod found bears S. 52°, 37', 19" E., 0.54 of a foot;

Thence, S. 29°, 43', 29" E, continuing with said common line, a distance of 78.53 feet to the point of curvature of a tangent circular curve to the left having a radius of 5,779.58 feet, whose chord bears S. 32°, 05', 41" E., 477.97 feet, from which point a 5/8-inch iron rod found bears S. 75°, 05', 10" W., 0.38 of a foot;

Thence, Southeasterly, continuing with said common line and with said curve, through a central angle of $04^{\circ}, 44', 23''$, an arc distance of 478.11 feet to the point of tangency, from which point a 5/8-inch iron rod found bears N. $85^{\circ}, 53', 43''$ E., 0.30 of a foot;

Thence, S. $34^{\circ}, 27', 52''$ E., continuing with said common line, a distance of 448.72 feet to a 1/2-inch iron rod set with cap for the East corner of the herein described 39.89-acre tract, from which point a 5/8-inch iron rod found bears S. $34^{\circ}, 27', 52''$ E., 721.83 feet;

Thence, S. $55^{\circ}, 45', 53''$ W., departing said common line, over and across said 100.900-acre tract and with the South line of the herein described 39.89-acre tract, a distance of 1,237.70 feet to a 1/2-inch iron rod set with cap for the South corner of the herein described 39.89-acre tract, said point being 400.00 feet Northeast of the common Southwest line of a called 15.58-acre tract of land described in Easement Deed from County to United States of America (Levees) as recorded in Volume 492, Page 445, Deed Records of Hidalgo County, Texas, the Northeast line of called 247.68-acre tract of land known as Tract 26C described in Warranty Deed to The United States of America as recorded in Volume 1510, Page 87, Deed Records of Hidalgo County, Texas, and the Southwest line of said 100.900 acre tract;

Thence, N. $31^{\circ}, 22', 59''$ W., continuing over and across said 100.900-acre tract, 400.00 feet Northeast of and parallel to said common line and with the Westerly line of the herein described 39.89-acre tract, a distance of 449.20 feet to a 1/2-inch iron rod set with cap for a West corner of the herein described 39.89-acre tract;

Thence, N. $22^{\circ}, 34', 59''$ W., continuing over and across said 100.900-acre tract, 400.00 feet Northeast of and parallel to said common line and with the Westerly line of the herein described 39.89-acre tract, a distance of 420.90 feet to a 1/2-inch iron rod set with cap for a West corner of the herein described 39.89-acre tract;

Thence, N. $21^{\circ}, 01', 59''$ W., continuing over and across said 100.900-acre tract, 400.00 feet Northeast of and parallel to said common line and with the westerly line of the herein described 39.89-acre tract, a distance of 705.02 feet to a 1/2-inch iron rod set with cap for a West corner of the herein described 39.89 acre tract;

Thence, N. $14^{\circ}, 13', 59''$ W., continuing over and across said 100.900-acre tract, 400.00 feet Northeast of and parallel to said common line and with the westerly line of the herein described 39.89-acre tract, a distance of 171.25 feet to a 1/2-inch iron rod set with cap for the Northwest corner of the herein described 39.89-acre tract, said point being on the Southeast line of the aforementioned 35.81-acre tract, from which point a 1-inch iron pipe found bears the following two calls: S. $79^{\circ}, 44', 17''$ W., a

distance of 400.96 feet and N. 14° , 13', 59" W., a distance of 88.13 feet;

Thence, N. 79° , 44', 17" E., with the Southeast line of said 35.81-acre tract, a distance of 1,066.35 feet to the POINT OF BEGINNING.

For a total of 61.01 acres

SCHEDULE D

SCHEDULE D

MAP or PLAT

Catholic Diocese Of Brownsville

RGV Sector/ Hidalgo County



Exhibit A

LAND TO BE CONDEMNED

Tract: RGV-MCS-2217

Owner: ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE, et al.

Acreage: 61.01

* The case caption identifies acreage for the entire parent tract; access to the entire parent tract may be necessary to complete a survey of the proposed tract outlined in red on the map above.

SCHEDULE E

SCHEDULE E

ESTATE TAKEN

Hidalgo County, Texas

Tracts: RGV-MCS-2212 and RGV-MCS-2217

Owner: ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE, et al.

Acreage: 4.781 (RGV-MCS-2212) and 61.01 (RGV-MCS-2217) for a total of 65.791

The estate taken is a temporary, assignable easement beginning on the date that possession is granted to the United States and ending 12 months later, consisting of the right of the United States, its agents, contractors, and assigns to enter in, on, over and across the land described in Schedule C to survey, make borings, and conduct other investigatory work for the purposes described in Schedule B and to access adjacent lands; including the right to trim or remove any vegetative or structural obstacles that interfere with said work; reserving to the landowners, their successors and assigns all rights, title, and privileges as may be used and enjoyed without interfering with or abridging the rights hereby acquired; subject to minerals and rights appurtenant thereto, and to existing easements for public roads and highways, public utilities, railroads and pipelines.

SCHEDULE F

SCHEDULE F

ESTIMATE OF JUST COMPENSATION

The sum estimated as just compensation for the land being taken is ONE HUNDRED DOLLARS AND NO/100 (\$100.00), to be deposited herewith in the Registry of the Court for the use and benefit of the persons entitled thereto; and, an additional sum determined at the conclusion of the temporary estate described in Schedule E to constitute actual damages, if any.

SCHEDULE G

SCHEDULE G**INTERESTED PARTIES**

The following table identifies all persons who have or claim an interest in the property condemned and whose names are now known, indicating the nature of each person's property interest(s) as indicated by references in the public records and any other information available to the United States. *See* Fed. R. Civ. P. 71.1(c).

Interested Party	Reference
ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE P.O. Box 2279 Brownsville, Texas 78522	RGV-MCS-2212 October 12, 1999 - Special Warranty Deed-Documents # 1999-814019; Deed Records of Hidalgo County
City of Mission, Texas, a Texas Municipal Corporation 1201 E 8 th Street Mission, Texas 7857	RGV-MCS-2212 March 12, 2007 – Lease Agreement
ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE P.O. Box 2279 Brownsville, Texas 78522	RGV-MCS-2217 October 12, 1999 - Special Warranty Deed-Documents # 1999-814019; Deed Records of Hidalgo County and July 1, 2011 - Warranty Deed-Documents # 2011-2219429, Deed Records of Hidalgo County